

Inventor: A. Grant  
Serial No.: 09/766,698

Atty Docket: 048971-0065 (AWGK-001)

### Remarks

As stated above, the applicant appreciates the Examiner's thorough examination of the subject application and requests reconsideration of the subject application in view of the preceding amendments and following remarks. Claims 1, 4 and 7 are independent claims. Claims 1-8 have been amended for clarification. No new matter has been added by these amendments.

### *Rejections under 35 USC §101*

Concerning Item 2 of the subject action, claims 1 – 8 have been initially rejected under 35 USC §101, as being directed to non-statutory matter as “merely an abstract idea and does not reduce to a practical application in the technical arts...”. Independent claims 1, 4 and 7 have been amended to clarify that at least some of the method steps of each these claims is embodied in computer program code configured to be carried out by a computer, using stored data.

Such computer implementation is supported by the specification throughout, both directly and through inherency. For example, throughout the present application it is made clear that the present invention, as distinguished from the prior art, is implemented in a “connected economy,” within the context of a “constituent value web,” which requires a “different enterprise process architecture.” (See, e.g., p. 1, line 15 - p. 2, lines 9; p. 5, lines 16 – p. 6, lines 10) Beyond the method steps, the present invention is directed to a “system of optimizing investments,” including a “normative process architecture.” (See, e.g., p. 2, lines 11-18) Additionally, “links”, “linking”, “data” collection, “tracking,” “monitoring,” “real time adjustments,” and “performance database” are mentioned within the specification. (See, e.g., p. 20 – 22) Clearly, if not explicitly, at the very least implicitly, the present application defines a network-based (e.g., “connected”) system that uses stored “data” (e.g., in “databases”) that is “linked” and which is “monitored,” “tracked” and “adjusted in real-time” – as could reasonably be understood to be performed by a computer system. Accordingly, the applicant requests removal of these rejections.

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### ***Rejections under 35 USC §112***

Concerning Item 3 of the subject action, the office action rejects claims 1 – 8 under 35 USC §112, 2<sup>nd</sup> paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the office action states that:

Claims 1-3, 5 & 6, 4, and 7-8 are being done manually or automatically by the system? Is also not clear on how the information is derive[d] without any source of database to obtain and stored the information prior to perform the summing step.

Independent claims 1, 4 and 7, and their respective dependent claims, have been amended to clarify that the claimed methods include steps configured to be carried out by a computer using data which can be stored, for example, in a database or memory. As claimed, it is cleared that, for example, summing is done using stored data. Accordingly, the applicant requests removal of these rejections.

### ***Rejections under 35 USC §102***

Concerning Items 5 and 6 of the subject action, the Examiner rejects claims 1 – 8 under 35 USC §102(b), as being anticipated by Prezioso (U.S. Patent 5,577,169; hereinafter “Prezioso”). According to its Abstract, Prezioso is directed to a system and method where “[t]he behavior of entities with common characteristics is profiled using fuzzy logic.” While the present invention and Prezioso deal generally with the behavior of entities, it becomes clear upon a close reading that Prezioso does not truly approach anticipating, for example, claim 1 of the present invention.

For instance, claim 1 of the present inventions relates to a method of *quantifying a value of a constituent to an entity*. Yet Prezioso teaches a method for determining the overall *compatibility or amount of membership of an entity with a target behavior*. (See Prezioso, col. 5, lines 33-50, see also claim 1) In the present invention, related to an entity are exchange elements having associated *exchange element costs* and constituent behaviors related to those exchange elements, represented by *values of the behaviors* of the constituent – the difference yields the sought after quantified value of the constituent to the entity related to the exchange element. The exchange elements can be adjusted to maximize value exchange, e.g., as discussed in dependent claim 3.

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In contrast, in Prezioso the target behavior appears to be known *a priori*. Prezioso teaches determining whether or not members of a peer group are engaging in the target behavior, or at least the degree to which they are – using “mapping.” Prezioso gives as one example a physician peer group and determining if members of the peer group are engaging in fraudulent billing practices. (see col. 6, lines 3 – 32) In such a case, presumably, a physician would not be meeting the target behavior. But there would be no need to change or adjust the target behavior or an exchange element (if the concept existed in Prezioso) – since non-fraudulent billing would always be desired. There is no value quantification or adjustment to improve the value of the constituent to the entity, as in the present invention. Rather, Prezioso merely appears to teach monitoring compliance or closeness to a target behavior – within a per group, using “fuzzy logic,” and teaches nothing of quantifying value of a constituent to an entity and then adjusting exchange elements to improve the value. This concept is not at all present in Prezioso. Accordingly, claim 1 and its dependent claims 2 and 3 are not anticipated by Prezioso. Removal of the rejections are, therefore, requested.

Independent claim 4, and its dependent claims 5 and 6, and independent claim 7, and its dependent claim 8, comprise elements similar to those of claim 1 and are, therefore, similarly not anticipated by Prezioso. Accordingly, claims 4-8 are not anticipated by Prezioso. Removal of the rejections are, therefore, requested.

The total number of claims remains the same. Therefore, no additional claim fees are required. A request for a three month extension is also enclosed, pursuant to 37 CFR §1.136(a), with authorization to charge the below identified deposit account for related fees. The applicant respectfully asserts that the subject application is now in condition for allowance. Authorization is given to charge any other fees or charges or to make any refunds due to Deposit Account 50-1133.

If the Examiner believes there are any outstanding issues to be resolved with respect to the


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above-identified application, the Examiner is invited to telephone the undersigned at their earliest convenience so that such issues may be resolved telephonically.

Respectfully submitted,

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